

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-2623

United States of America,

Appellee,

v.

Curtis Waheed Rasool,

Appellant.

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* Appeal from the United States

* District Court for the

* Eastern District of Arkansas.

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* [UNPUBLISHED]

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Submitted: March 7, 2008

Filed: March 17, 2008

Before MURPHY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this direct criminal appeal, counsel for Curtis Waheed Rasool has filed a motion seeking leave to withdraw and a brief pursuant to Anders v. California, 386 U.S. 738 (1967), and Rasool has filed a pro se supplemental brief. Rasool pleaded guilty to a drug-conspiracy charge and was sentenced to 159 months in prison and 10 years of supervised release. The district court¹ entered judgment on May 23, 2006. Rasool's pro se notice of appeal, dated June 12 and postmarked June 15, was date-stamped as received by the district court on June 19. Even if the notice of appeal is

¹The Honorable George Howard, Jr., late a United States District Judge for the Eastern District of Arkansas.

deemed filed on June 12, it was not filed within 10 days of entry of judgment and is therefore untimely. See Fed. R. App. P. 4(b)(1)(A)(i). A district court may, however, grant a defendant an additional 30 days in which to file a notice of appeal upon a showing of excusable neglect or good cause. See Fed. R. App. P. 4(b)(4).

Accordingly, counsel's motion to withdraw is held in abeyance and the case is remanded to the district court to determine whether the time for filing a notice of appeal should be extended under Rule 4(b)(4). See United States v. Petty, 82 F.3d 809, 810 (8th Cir. 1996) (per curiam). Upon ruling, the district court shall promptly return the case to this court for dismissal or further proceedings, as may be appropriate.
